

## **Appendix E. 404(b)(1) Evaluation Public Interest Review**

### **INTRODUCTION**

This document represents a draft environmental assessment and 404(b)(1) evaluation, prepared as part of the CSLC's Program EIR/EA, to assist the USACE's evaluation of program alternatives for the final disposition of the shell mounds. This document follows the format of USACE's evaluation, and utilizes the same categories and criteria of evaluation. This document does not constitute the USACE's formal evaluation, which would be prepared at the time a project is formally proposed, and any required permits requested by ChevronTexaco.



**ENVIRONMENTAL ASSESSMENT  
404(b)(1) EVALUATION  
PUBLIC INTEREST REVIEW**

**PROJECT PROPONENT: CHEVRONTEXACO**

**Prepared by:**

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Project Manager

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Date

**Reviewed by:**

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Chief,  
Regulatory Branch

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Date

**Approved by:**

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George L. Beams, P.E.  
Chief, Construction -  
Operations Division

\_\_\_\_\_  
Date

This document constitutes my Environmental Assessment, Statement of Findings, and review and compliance determination according to the 404(b)(1) guidelines for the proposed work (applicant's preferred alternative) described in the attached public notice: At the time of this writing, a public notice has not been circulated as the project proponent has not yet initiated the Section 404/10/103 permit evaluation process.

- I. Proposed Project: The location and description of work are described in the attached document.
  - A. Changes to the proposed project since circulation of the public notice: A public notice has not been circulated at the time of this writing.
    - 1. Why a new public notice was not necessary: Not applicable.
  - B. Specific activity that requires a Dept. of Army permit: Removal (i.e., dredging, capping or smoothing, ocean disposal of dredged material) of the shell mounds and the caissons associated with Platform Hazel would require Dept. of Army authorization.
  - C. Scope of Analysis under NEPA: The scope of analysis includes activities that would occur in navigable waters of the U.S. (i.e., shell mound and caisson removal and disposal options, including upland disposal of dredged material). Upland, non-jurisdictional areas considered in this EIR/EA include upland disposal sites that may accept potentially contaminated sediments. Other non-jurisdictional areas include roads and port areas that would provide for transport of equipment and personnel to the project area.
- II. Environmental and Public Interest Factors Considered:
  - A. Purpose and Need - for the Public interest determination: See Section 1.0 of this EIR/EA.
    - 1. Specific (relevant) Public Interest factors considered: See Section 3.0 of this EIR/EA.
  - B. Overall project purpose for 404(b)(1) analysis: The overall project purpose is the final disposition of the shell mound material and caissons formerly associated with the 4H platforms. Actions would occur within the navigable waters of the U.S. to either remove, modify, or abandon in place these materials.
  - C. Basic project purpose and water dependency: The basic project purpose is twofold: to remove obstructions to navigation and commercial fishing in nearshore waters in Santa Barbara County, and to prevent the contamination of marine sediments, waters, and biota. Due to the project being located entirely within navigable waters of the U.S. the project is water dependent.
  - D. Alternatives (33 CFR 320.4(b)(4), 40 CFR 230.10):

1. No action: Under this alternative, the shell mounds and caissons would be abandoned in place.
  2. Sequenced search for less environmentally damaging alternatives:
    - a. Other Sites: The shell mounds exist in only four locations and the caissons associated with Platform Hazel are located in the footprint of the former platform; the project is site specific and alternative locations do not exist.
    - b. Other project designs: See Section 2.0 of this EIR/EA for a description of program alternatives and their designs.
- E. Anticipated changes to the physical/chemical characteristics of the aquatic environment:
- (x) substrate: See Section 3.2.1.3 (Marine Sediment Quality) and Section 3.2.4 (Impacts and Mitigation Measures for program alternatives) of this EIR/EA.
  - (x) currents, circulation or drainage patterns: See Section 3.2.1.1 (Oceanography) and Section 3.2.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
  - (x) suspended particulates; turbidity: See Section 3.2.1.2 (Marine Water Quality) and Section 3.2.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
  - (x) water quality (temperature, salinity patterns and other parameters): See Section 3.2.1.2 (Marine Water Quality) and Section 3.2.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
  - ( ) flood control functions: Not applicable.
  - ( ) storm, wave and erosion buffers: Not applicable.
  - ( ) erosion and accretion patterns: Not applicable.
  - ( ) aquifer recharge: Not applicable.
  - ( ) baseflow: Not applicable.
  - (x) mixing zone, in light of the depth of water at the disposal site; current velocity, direction and variability at the disposal site; degree of turbulence; water column stratification; discharge vessel speed and direction; rate of discharge; dredged material characteristics; number of discharges per unit of time; and any other relevant factors affecting rates and patterns of mixing: See Section 3.2.1.2 (Marine Water Quality) and Section 3.2.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
- F. Anticipated changes to the biological characteristics of the aquatic environment:

- ( ) special aquatic sites (wetlands, mudflats, coral reefs, pool and riffle areas, vegetated shallows, sanctuaries and refuges, as defined in 40 CFR 230.40-45): Not applicable; the project would not occur in or adjacent to a special aquatic site nor indirectly affect these resources.
- (x) habitat for fish and other aquatic organisms: See Section 3.3. (Marine Benthic Habitats, Invertebrates, and Fishes) and Section 3.3.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
- (x) wildlife habitat (breeding, cover, food, travel, general): See Section 3.3 (Marine Benthic Habitats, Invertebrates, and Fishes) and Section 3.4 Wildlife (Marine Mammals, Sea Turtles, Seabirds) and Sections 3.3.4 and 3.4.4 (Potential Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
- (x) endangered or threatened species: ): See Section 3.3 (Marine Benthic Habitats, Invertebrates, and Fishes) and Section 3.4 Wildlife (Marine Mammals, Sea Turtles, Seabirds) and Section 3.4.3 (Potential Impacts and Mitigation Measures for Program alternatives) of this EIR/EA. See also Section 3.8.3 (Onshore Biological Resources) of this EIR/EA.
  - 1) Listed endangered and/or threatened species or designated critical habitat present on site: See the Sections referenced above. Listed species and critical habitats would not be affected.
  - 2) Proposed listed endangered and/or threatened species or proposed critical habitat present on site: See sections referenced above. Proposed species and critical habitats would not be affected.
  - 3) Compliance with ESA - Formal/Informal consultation or conference: Program alternatives do not affect ESA-listed or proposed species. Pending concurrence from USFWS and NOAA Fisheries, no further action would be required.
- (x) biological availability of possible contaminants in dredged or fill material, considering hydrography in relation to known or anticipated sources of contaminants; results of previous testing of material from the vicinity of the project; known significant sources of persistent pesticides from land runoff or percolation; spill records for petroleum products or designated (Section 311 of the CWA) hazardous substances; other public records of significant introduction of contaminants from industries, municipalities or other sources: See Section 3.2.1.2 (Marine Water Quality) and Section 3.2.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.

G. Anticipated changes to the human use characteristics of the aquatic environment:

- ( ) existing and potential water supplies; water conservation: Not applicable.

- (x) recreational or commercial fisheries: See Section 3.5 (Commercial and Recreational Fishing) and Section 3.5.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
- (x) other water related recreation: See Section 3.6 (Land Use and Recreational Water Use) of this EIR/EA.
- (x) aesthetics of the aquatic ecosystem: See Section 3.10.4 (Aesthetics) of this EIR/EA.
- ( ) parks, national and historic monuments, national seashores, wild and scenic rivers, wilderness areas, research sites, etc.: Not applicable.
- ( ) national natural landmarks program: Not applicable.
- (x) traffic/transportation patterns: See Section 3.7 (Transportation) of this EIR/EA.
- (X) energy consumption or generation: See Section 3.10.3 (Public Services and Utilities) of this EIR/EA.
- (x) navigation: See Section 3.7 (Transportation) of this EIR/EA.
- (x) safety: See Section 3.9 (Safety/Hazards/Risk of Upset) of this EIR/EA.
- (x) air quality: See Section 3.1 (Air Quality) and Section 3.1.5 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
- (x) noise: See Section 3.10.2 (Noise) of this EIR/EA.
- (x) historic properties: See Section 3.10.1 (Cultural Resources) of this EIR/EA.
- ( ) land use classification: Not applicable.
- (x) economics: See Section 3.5 (Commercial and Recreational Fishing) and Section 3.5.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
- ( ) prime and unique farmland (7 CFR Part 658): Not applicable.
- (x) food and fiber production: See Section 3.5 (Commercial and Recreational Fishing) and Section 3.5.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
- (x) general water quality: See Section 3.2.1.2 (Marine Water Quality) and Section 3.2.4 (Impacts and Mitigation Measures for Program alternatives) of this EIR/EA.
- ( ) mineral needs: Not applicable

( ) consideration of private property: Not applicable

(X) other: See Section 3.11 (Environmental Justice) of this EIR/EA.

H. Other anticipated changes to non-jurisdictional areas that have been determined to be within the Corps' NEPA scope of analysis: Not applicable, as the only non-jurisdictional areas that could be affected by the proposed project or program alternatives are upland disposal sites.

I. Summary of indirect and cumulative effects from the proposed permit action: Indirect and cumulative effects of the proposed project will be determined during the Section 404/10/103 permit evaluation process and the rationale will be documented following completion of the Section 404(b)(1) analysis.

J. Other cumulative effects not related to the proposed permit action:

1. Occurred on-site historically: See Section 4.0 (Cumulative Impacts) of this EIR/EA. The shell mounds were largely removed (except for the caissons associated with Platform Hazel) in 1996; wells associated with oil production were capped and distribution pipelines on the seafloor were abandoned in place. At the time of platform removal, the shell mounds were left in place pending this environmental analysis.
2. Likely to occur within the foreseeable future: Other platforms, shell mounds and pipelines in the Santa Barbara Channel could be removed, modified, or abandoned in place in the future.
3. Contextual relationship between the proposed action and (1) and (2) above: As oil leases in the Santa Barbara Channel expire in the coming years, and oil production ceases, infrastructure (i.e., platforms, pipelines, etc.) would be removed in accordance with permit conditions issued by the California State Lands Commission, California Coastal Commission, and/or Minerals Management Service.

K. Mitigation proposed by applicant:

1. Avoidance, minimization, compensation sequence: No mitigation measures have been proposed by the applicant at the time of this writing.
2. Summary of why applicant's proposal does or does not reduce impacts to below significance: To be determined.

III Findings:

A. Status of other authorizations and legal requirements:

1. Water quality certification: The permittee is required to obtain a Section 401 certification, or waiver thereof, from the California Regional Water Quality Control Board before a Section 404 permit is issued.
  2. Coastal zone management consistency determination: The permittee is required to obtain a determination that the project is consistent with provisions of the Coastal Zone Management Act from the California Coastal Commissions Office of Federal Consistency before a Section 404 permit is issued.
  3. Compliance with Section 106 of the National Historic Preservation Act: Not applicable.
  4. Compliance with the Endangered Species Act: The permittee is required to obtain concurrence from the USFWS and NOAA Fisheries that the project is consistent with the provisions of the federal Endangered Species Act before a Section 404 permit is issued.
  5. Compliance with Section 176(c)(General Conformity Rule review) of the Clean Air Act: The proposed permit has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de minimis levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit.
  6. State and/or local authorizations: See Section 2.5 of this EIR/EA for a discussion of state and local authorizations that would be required.
- B. Corps public notice and comment process: A complete application was received on MO/DAY/YEAR. A public notice describing the project was issued on (TBD) and sent to all interested parties (mailing list), including appropriate state and Federal agencies. All comments received on this action have been reviewed and are summarized below.
1. Summary of comments received. A public notice has not been circulated at the time of this writing as the Section 404/10/103 process has not yet been initiated by the project proponent's application for a permit.
    - a. Federal agencies:
      - 1) U.S. Environmental Protection Agency (EPA):
      - 2) U.S. Fish and Wildlife Service (FWS):
      - 3) National Marine Fisheries Service (NMFS):
      - 4) U.S. Coast Guard (USCG):

- 5) Bureau of Land Management:
- 6) Bureau of Reclamation:
- 7) Federal Emergency Management Agency:
- 8) Federal Energy Regulatory Commission:
- 9) Federal Highway Administration:
- 10) National Park Service:
- 11) Natural Resources Conservation Service:
- 12) Advisory Council - Historic Preservation:

b. State and local agencies:

- 1) State Coastal Zone Management agency
- 2) State Fish and Game agency:
- 3) State Lands agency:
- 4) State Historic Preservation Officer:
- 5) State Water Quality agency:
- 6) Soil and Water Conservation District:

c. Other organizations and individuals:

d. Requests for public hearings:

2. Evaluation:

I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application as well as the stated views of other interested agencies and the concerned public. In doing so, I have considered the possible consequences of this proposed work in accordance with regulations published in 33 CFR Part 320 to 330 and 40 CFR Part 230. The following paragraphs include our evaluation of comments received and of how the project complies with the above cited regulations.

- a. Consideration of comments: This section will be completed following receipt of public comments on the public notice.

- b. Evaluation of Compliance with 404(b)(1) guidelines (restrictions on discharge, 40 CFR 230.10). (A check in a block denoted by an asterisk indicates that the project does not comply with the guidelines.)

1) Alternatives test:

$\frac{*}{\text{Yes}}$      $\frac{X}{\text{No}}$

- a) Based on the discussion in II B, are there available, practicable alternatives having less adverse impact on the aquatic ecosystem and without other significant adverse environmental consequences that do not involve discharges into "waters of the United States" or at other locations within these waters?

$\frac{X}{\text{Yes}}$      $\frac{*}{\text{No}}$

- b) Based on II B, if the project is in a special aquatic site and is not water-dependent, has the applicant clearly demonstrated that there are no practicable alternative sites available?

2) Special restrictions. Will the discharge:

$\frac{*}{\text{Yes}}$      $\frac{X}{\text{No}}$

- a) violate state water quality standards?

$\frac{*}{\text{Yes}}$      $\frac{X}{\text{No}}$

- b) violate toxic effluent standards (under Section 307 of the Act)?

$\frac{*}{\text{Yes}}$      $\frac{X}{\text{No}}$

- c) jeopardize endangered or threatened species or their critical habitat?

$\frac{*}{\text{Yes}}$      $\frac{X}{\text{No}}$

- d) violate standards set by the Department of Commerce to protect marine sanctuaries?

$\frac{X}{\text{Yes}}$      $\frac{*}{\text{No}}$

- e) Evaluation of the information in II C and D above indicates that the proposed discharge material meets testing exclusion criteria for the following reason(s):: See Section 2.1 of this EIR/EA for discussion of the shell mounds sediment test results.

( ) based on the above information, the material is not a carrier of contaminants

(x) the levels of contamination are substantially similar at the extraction and disposal sites and the discharge is not likely to result in degradation of the disposal site and pollutants will not be transported to less contaminated areas

( ) acceptable constraints are available and will be implemented to reduce contamination to acceptable levels

within the disposal site and prevent contaminants from being transported beyond the boundaries of the disposal site

3) Other restrictions. Will the discharge contribute to significant degradation of "waters of the U.S." through adverse impacts to:

$\frac{*}{\text{Yes}}$     $\frac{X}{\text{No}}$

a) human health or welfare, through pollution of municipal water supplies, fish, shellfish, wildlife and special aquatic sites?

$\frac{*}{\text{Yes}}$     $\frac{X}{\text{No}}$

b) life states of aquatic life and other wildlife?

$\frac{*}{\text{Yes}}$     $\frac{X}{\text{No}}$

c) diversity, productivity and stability of the aquatic ecosystem, such as the loss of fish or wildlife habitat, or loss of the capacity of wetland to assimilate nutrients, purify water or reduce wave energy?

$\frac{*}{\text{Yes}}$     $\frac{X}{\text{No}}$

d) recreational, aesthetic and economic values?

$\frac{X}{\text{Yes}}$     $\frac{*}{\text{No}}$

4) Actions to minimize potential adverse impacts (mitigation). Will all appropriate and practicable steps (40 CFR 23.70-77) be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?

(Proposed Special Conditions): Special conditions associated with the Section 404/10/103 action will be determined during the USACE permit process. Mitigation measures described in Chapter 3.0 of this EIR/EA will be incorporated as special conditions of the permitted project, as applicable.

c. General Evaluation (33 CFR 320.4(a)):

- 1) The relative extent of the public and private need for the proposed work: See Section 1.0 of this EIR/EA for a discussion of the public and private need for the proposed project.
- 2) The practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure of work: Alternative locations do not exist; the project location is site specific. See Section 2.0 of this EIR/EA for a discussion of the program alternatives and methods that would achieve the overall project purpose.

- 3) The extent and permanence of the beneficial and/or detrimental effects that the proposed structures or work may have on the public and private uses to which the area is suited: See Section 3.0 of this EIR/EA for a discussion of the effects on the public and private uses that would be affected by the proposed project.

3. Determinations:

- a. Finding of No Significant Impact (FONSI) (33 CFR Part 325). Having reviewed the information provided by the applicant, all interested parties and our assessment of environmental impacts contained in part II B of this document, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.
- b. 404(b)(1) Compliance/Noncompliance Review (40 CFR 230.12):
  - ( ) The discharge complies with the guidelines. The proposed project is the least environmentally damaging practicable alternative (LEDPA).
  - (x) All of the appropriate and practicable conditions listed in III.B.2.b.4 to minimize pollution or adverse effects to the affected ecosystem have been included as part of the proposed action or were required by special conditions of the permit. This revised and/or conditioned project is the LEDPA.
  - ( ) The discharge fails to comply with the requirements of these guidelines because:
    - ( ) There is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem and that alternative does not have other significant adverse environmental consequences.
    - ( ) The proposed discharge will result in significant degradation of the aquatic ecosystem under 40 CFR 230.10(b) or (c).
    - ( ) The discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem, namely...
    - ( ) There is not sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with the guidelines.
- c. Public interest determination: I find that issuance of a Department of the Army permit (with special conditions), as prescribed by regulations published in 33 CFR Parts 320 to 330, and 40 CFR Part 230, is not contrary to the public interest. The terms and conditions of approval and

construction of the 4-H platforms from the late 1950s to the mid-1960s required that upon expiration of the leases and cessation of oil production, the platforms and associated infrastructure would be removed. Following approval by the California Coastal Commission (Commission) and the USACE in 1995, the 4-H platforms were removed. Subsequently, it was determined that due to the presence of the shell mounds, these areas did not pass the “trawlability” test for commercial fishermen, and were thus determined to be unavailable for this activity; this represented a reduction in economic activity for this industry and was considered contrary to the public interest. The unavailability of these areas for commercial fishing activities, as well as the potential hazards posed by trawlers that could snag the mounds or caissons, and the existence of potentially contaminated sediments within the shell mounds that could leach into surrounding waters was also determined by the Commission to be contrary to the public interest. The proposed project would remove the existing obstruction to commercial fishing in the area of the shell mounds, as well as any potentially contaminated sediment, and would thus be in the public interest.